

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

AIMEE MARIE LEUTE
844 Village Quarter Road A-1
West Dundee, IL 60118

Registered Nurse License No. 449214

Respondent.

Case No. 2007-99

OAH No. 2007090450

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on May 30, 2008.

IT IS SO ORDERED April 30, 2008.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

AIMEE MARIE LEUTE
Tucson, AZ 85712

Registered Nurse License No. 449214

Respondent.

Case No. 2007-99

OAH No. 2007090450

PROPOSED DECISION

Administrative Law Judge Nancy L. Rasmussen, Office of Administrative Hearings, State of California, heard this matter on February 28, 2008, in Sacramento, California.

Deputy Attorney General Arthur D. Taggart represented complainant Ruth Ann Terry, M.P.H., R.N., Executive Officer, Board of Registered Nursing, Department of Consumer Affairs, State of California.

Christopher J. Stull represented respondent Aimee Marie Leute.¹ Mr. Stull and respondent were in Illinois, and they participated in the hearing by telephone.

The matter was submitted for decision on February 28, 2008.

FACTUAL FINDINGS

1. On March 31, 1990, the Board of Registered Nursing issued registered nurse license number 449214 to respondent Aimee Marie Leute. The license expiration date is September 30, 2009.

2. Effective December 13, 2005, pursuant to Consent Agreement and Order No. 0503049, the Arizona State Board of Nursing granted respondent professional nurse license number RN132306, with the license being placed on probation for 24 months. In the Consent Agreement, respondent admitted the following facts:

¹ Because Mr. Stull is not licensed to practice law in California, he was appearing in this proceeding as a layperson. (He is licensed to practice law in Illinois.)

1. On or about February 24, 2005, Applicant [respondent] submitted an application for professional nurse licensure by endorsement.

2. On or about April 14, 2005, during an interview with Board staff, Applicant disclosed a five (5) year history of multiple opioid and benzodiazepine use, muscle relaxants, anti-depressants and non-steroidal medications that were prescribed by various physicians in Florida (FL), California (CA) and Arizona (AZ) for her chronic back pain, anxiety and depression. Applicant disclosed her other medical treatments have included the following: a) epidural steroid injections, b) TENS unit, c) chiropractic therapy, and d) physical therapy.

3. On or about October 18, 2005, Applicant voluntarily submitted to an evaluation by Michel A. Sucher, M.D., a Board approved Addictionologist. Dr. Sucher opined that Applicant was not a chemically dependent addict, but rather was physically dependent upon opiate medications, a consequence of long term prescribed opioid use. Dr. Sucher further opined Applicant could function safely as a nurse as long as she remained compliant with her current pain management treatment program and medication regiment [sic] as directed by pain management specialist, Larry P. Putnam, M.D.

The conditions of respondent's license probation in Arizona included, inter alia, requirements that she abstain from alcohol use, abstain from the use or possession of controlled substances or dangerous drugs except when lawfully prescribed for a bona fide illness or condition, submit to random drug testing, and practice under supervision. Respondent was also subject to limitations on the number of hours she could work, and the number of hours she could be on call, during designated periods of time.

3. Effective January 17, 2007, pursuant to Consent for Entry of Voluntary Surrender Order No. 0503049, the Arizona State Board of Nursing accepted the voluntary surrender by respondent of professional nurse license number RN132306. The consent agreement specified that respondent's voluntary license surrender constituted disciplinary action.

Respondent surrendered her Arizona license because, with the limited on-call hours permitted by her probation, she could not find employment in her specialty of recovery room nursing. She left Arizona to seek employment elsewhere.

4. Respondent has not practiced as a registered nurse since September 2005 in Arizona. She now lives in Illinois, the state where she received her nursing degree in 1988 and where she has family and friends. Respondent applied for a nursing license there,

disclosing the voluntary surrender of her Arizona license. She is waiting for a decision on her application by the Illinois nursing board. Respondent has been offered a nursing position at a hospital, contingent on her obtaining a license.

5. Respondent started taking prescription pain medications in 2002 after she suffered a herniated lumbar disc in an auto accident. (She had previously been treated with medications for depression and anxiety.) At the time of her evaluation by Dr. Sucher in October 2005, respondent was taking oxycodone and carisoprodol (Soma). For at least the last year, she has not taken any opiates or benzodiazepines, although she continues to take carisoprodol, a muscle relaxant prescribed by her physician. Respondent has lost 20 pounds and is doing exercises that help with her back problem. She asserts that she has overcome her physical dependency on opiates. Respondent has not attended 12-step meetings or participated in any treatment for chemical dependency. (In his report, Dr. Sucher stated that such treatment was not indicated.)

6. Respondent has no current plans to work as a registered nurse in California, but she wants to keep her options open by retaining her California license. In 1990, she worked at Balboa Hospital in San Diego and fell in love with the state. Her dream is to relocate to California and to retire here. Respondent has no objection to her license being placed on probation, and she understands that she could not fulfill the terms of probation without practicing nursing in California.

7. The Board of Registered Nursing has incurred the following costs from the Attorney General's office in connection with the investigation and prosecution of this case:

Deputy Attorney General

2005/2006: 0.25 hrs. @ \$146/hr. – \$ 36.50

2007/2008: 2.00 hrs. @ \$158/hr. – \$316.00

Paralegal

2006/2007: 2.00 hrs. @ \$101/hr. – \$202.00

2007/2008: 0.50 hrs. @ \$101/hr. – \$ 50.50

\$605.00

LEGAL CONCLUSIONS

1. Findings 2 & 3: Business and Professions Code section 2761, subdivision (a), authorizes the board to take disciplinary action against a licensee for unprofessional conduct. Under subdivision (a)(4) of that section, unprofessional conduct includes “[d]enial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state” Accordingly, the discipline of respondent's professional nurse license by the Arizona State Board of Nursing constitutes cause to discipline respondent's license under Business and Professions Code section 2761, subdivision (a)(4).

2. Complainant has requested that respondent be ordered to pay the board the costs of investigation and enforcement of the case. Business and Professions Code section 125.3 provides that respondent may be ordered to pay the board "a sum not to exceed the reasonable costs of the investigation and enforcement of the case." The actual costs of investigation and enforcement are \$605, and in the absence of any evidence to the contrary, this amount is determined to be reasonable.

3. There is no evidence that respondent's use of prescription medications interfered with her performance of duty as a nurse, and the Arizona board granted her a license subject to a 24-month period of probation. The California board's guidelines provide that the minimum discipline where a licensee has been disciplined by another state is a stayed revocation with three years of probation. The public interest can be adequately protected by imposing this discipline on respondent. Most of the conditions of probation specified in the board's guidelines for an alcohol or drug violation are appropriate, except that since there is no evidence that respondent is chemically dependent, she will not be required to complete a treatment/rehabilitation program. Also, the condition requiring therapy or counseling will be modified to be discretionary rather than mandatory.

ORDER

Registered nurse license number 449214 issued to respondent Aimee Marie Leute is revoked. However, the revocation is stayed and respondent is placed on probation for three (3) years on the terms and conditions set forth below.

Each term and condition of probation is separate and distinct. If any term or condition of this order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this order, and all other applications thereof, shall not be affected. Each term and condition of this order shall separately be valid and enforceable to the fullest extent permitted by law.

1. OBEY ALL LAWS: Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by respondent to the board in writing within 72 hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit completed fingerprint cards and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.
2. COMPLY WITH PROBATION PROGRAM: Respondent shall fully comply with the terms and conditions of the Probation Program established by the board and cooperate with representatives of the board in its monitoring and investigation of respondent's compliance. Respondent shall inform the board in writing within no more than 15 days of any address change and shall at all times maintain an active,

current license status with the board, including during any period of suspension.

Upon successful completion of probation, respondent's license shall be fully restored.

3. REPORT IN PERSON: During the period of probation, respondent shall appear in person at interviews/meetings as directed by the board or its designated representatives.
4. RESIDENCY, PRACTICE OR LICENSURE OUTSIDE OF STATE: Periods of residency or practice as a registered nurse outside of California shall not apply to the reduction of this probationary term. Respondent's probation is tolled, if and when she resides outside of California. Respondent must provide written notice to the board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the board if she applies for or obtains a new nursing license during the term of probation.

5. SUBMIT WRITTEN REPORTS: During the period of probation, respondent shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury as required by the board. These reports/declarations shall contain statements relative to respondent's compliance with all the conditions of the board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the board or its representatives.

PROVIDE DECISION: Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

6. FUNCTION AS A REGISTERED NURSE: Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the board.

For purposes of compliance with the section, “engage in the practice of registered nursing” may include, when approved by the board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the board.

If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the board, in its discretion, may grant an extension of respondent’s probation period up to one year without further hearing in order for her to comply with this condition. During the one year extension, all original conditions of probation shall apply.

7. EMPLOYMENT APPROVAL AND REPORTING

REQUIREMENTS: Respondent shall obtain prior approval from the board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the board all performance evaluations and other employment-related reports as a registered nurse upon request of the board.

Respondent shall provide a copy of this decision to her employer and immediate supervisor prior to commencement of any nursing or other health care related employment.

In addition to the above, respondent shall notify the board in writing within 72 hours after she obtains any nursing or other health care related employment. Respondent shall notify the board in writing within 72 hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8. SUPERVISION: Respondent shall obtain prior approval from the board regarding respondent’s level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the board,

unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

- a. Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- b. Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.
- c. Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.
- d. Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with her as required by the board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the board, periodic, on-site visits to patients' homes visited by respondent with or without respondent being present.

9. EMPLOYMENT LIMITATIONS: Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, for a temporary nurse placement agency, as a traveling nurse or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If respondent is working or intends to work in excess of 40 hours per week, the board may request documentation to determine whether there should be restrictions on the hours of work.

10. COMPLETE NURSING COURSE(S): Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the board before enrolling in the course(s). Respondent shall submit to the board the original transcripts or certificates of completion for the above required course(s). The board shall return the original documents to respondent after photocopying them for its records.

11. COST RECOVERY: Respondent shall pay to the board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$605. Respondent shall be permitted to pay these costs in a payment plan approved by the board, with payments to be completed no later than three months prior to the end of the probation term.

If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the board, in its discretion, may grant an extension of respondent's probation period up to one year without further hearing in order for her to comply with this condition. During the one year extension, all original conditions of probation will apply.

12. VIOLATION OF PROBATION: If respondent violates the conditions of her probation, the board, after giving respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed revocation of her license.

If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney

General's Office has been requested to prepare an accusation or petition to revoke probation against respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the board.

13. LICENSE SURRENDER: During the term of probation, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, she may surrender her license to the board. The board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation.

Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the board. A registered nurse whose license has been surrendered may petition the board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- a) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
 - b) One year for a license surrendered for a mental or physical illness.
14. PHYSICAL EXAMINATION: Within 45 days of the effective date of this decision, respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the board before the assessment is performed, submit an assessment of respondent's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the board. If medically determined, a recommended treatment program will be instituted and followed by respondent with the physician, nurse practitioner, or physician assistant providing written reports to the board on forms provided by the board.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the board and respondent by telephone, and the board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by the board. During this period of suspension, respondent shall not engage in any practice for which a

license issued by the board is required until the board has notified respondent that a medical determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to have the above assessment submitted to the board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the board. This period of suspension will not apply to the reduction of this probationary time period. The board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

15. ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS: Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood-altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the board on a quarterly basis respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time-limited use of any such substances.

The board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

16. SUBMIT TO TESTS AND SAMPLES: Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the board approves. The length of time and frequency will be subject to approval by the board. Respondent is

responsible for keeping the board informed of her current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the board, as directed. Any confirmed positive finding shall be reported immediately to the board by the program and respondent shall be considered in violation of probation.

In addition, respondent, at any time during the period of probation, shall fully cooperate with the board or any of its representatives, and shall, when requested, submit to such tests and samples as the board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the board files a petition to revoke probation or an accusation, the board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, the respondent shall immediately cease practice and shall not resume practice until notified by the board. After taking into account documented evidence of mitigation, if the board files a petition to revoke probation or an accusation, the board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

17. MENTAL HEALTH EXAMINATION: Respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the board. All costs are the responsibility of the respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by respondent.

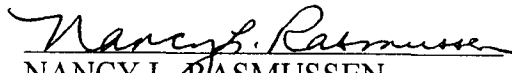
If respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the board and respondent by telephone, and the board shall request that the Attorney General's office prepare an accusation or petition to revoke probation.

Respondent shall immediately cease practice and may not resume practice until notified by the board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the board is required, until the board has notified respondent that a mental health determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to have the above assessment submitted to the board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the board. This period of suspension will not apply to the reduction of this probationary time period. The board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

18. THERAPY OR COUNSELING PROGRAM: If the board determines it to be necessary, respondent, at her expense, shall participate in an ongoing counseling program until such time as the board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

DATED: March 6, 2008


NANCY L. RASMUSSEN
Administrative Law Judge
Office of Administrative Hearings

BILL LOCKYER, Attorney General
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Attorneys for Complainant

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2007-99

AIMEE MARIE LEUTE
4415 East Grant Road
Tucson, Arizona 85712

A C C U S A T I O N

Registered Nurse License No. 449214

Respondent.

Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

PARTIES

1. Complainant brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

License History

2. On or about March 31, 1990, the Board issued Registered Nurse License Number 449214 ("license") to AIMEE MARIE LEUTE ("Respondent"). The license will expire on September 30, 2007, unless renewed.

STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a

1 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code
2 section 2750) of the Nursing Practice Act.

3 4. Code section 2764, in pertinent part, that the expiration of a license shall
4 not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
5 licensee or to render a decision imposing discipline on the license. Under Code section 2811,
6 subdivision (b), the Board may renew an expired license at any time within eight years after the
7 expiration.

8 5. Code section 118, subdivision (b), provides that the suspension,
9 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
10 proceed with a disciplinary action during the period within which the license may be renewed,
11 restored, reissued or reinstated.

12 6. Code section 2761 states, in pertinent part:

13 The board may take disciplinary action against a certified or licensed nurse or
14 deny an application for a certificate or license for any of the following:

15 (a) Unprofessional conduct, which includes, but is not limited to, the
16 following:

17 (4) Denial of licensure, revocation, suspension, restriction, or any other
18 disciplinary action against a health care professional license or certificate by another state
19 or territory of the United States, by any other government agency, or by another
20 California health care professional licensing board. A certified copy of the decision or
21 judgment shall be conclusive evidence of that action.

19 **COST RECOVERY**

20 7. Code section 125.3 provides, in pertinent part, that the Board may request
21 the administrative law judge to direct a licensee found to have committed a violation or
22 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
23 and enforcement of the case.

24 **CAUSE FOR DISCIPLINE**

25 **(Out-of-State Discipline)**

26 8. Respondent is subject to disciplinary action under Code section 2761,
27 subdivision (a)(4), on the grounds of unprofessional conduct, as follows: Effective
28 December 13, 2005, pursuant to Consent Agreement and Order No. 0503049, filed by the

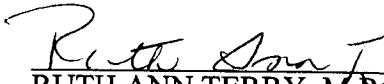
1 Arizona State Board of Nursing ("Board"), in the case entitled, "In the Matter of the Application
2 for Professional Nurse Licensure by Endorsement of Aimee Marie Leute," Respondent was
3 granted a professional nursing license. However, the license was placed on probation for twenty-
4 four months with certain terms and conditions of probation. A copy of the Board's Consent
5 Agreement and Order No. 0503049 is attached hereto as **Exhibit A**, and is incorporated herein.

6 **PRAYER**

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein
8 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 9 1. Revoking or suspending Registered Nurse License Number 449214 issued
10 to AIMEE MARIE LEUTE;
- 11 2. Ordering AIMEE MARIE LEUTE to pay the Board the reasonable costs of
12 the investigation and enforcement of this case pursuant to Code section 125.3; and,
- 13 3. Taking such other and further action as deemed necessary and proper.
14

15 DATED: 10/12/06
16

17 
18 RUTH ANN TERRY, M.P.H., R.N.
19 Executive Officer
20 Board of Registered Nursing
21 Department of Consumer Affairs
22 State of California
23 Complainant
24
25
26

ARIZONA STATE BOARD OF NURSING
4747 North 7th Street, Suite 200
Phoenix, Arizona 85014
602-889-5150

IN THE MATTER OF PROFESSIONAL
NURSE LICENSE NO.
RN132306
ISSUED TO:

AIMEE MARIE LEUTE
RESPONDENT

CONSENT FOR ENTRY OF
VOLUNTARY SURRENDER

ORDER NO. 0503049

A complaint charging Aimee M. Leute ("Respondent") with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing ("Board"). In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements, and the responsibilities of the Board, and pursuant to A.R.S. §32-1663 (D)(5), Respondent voluntarily surrenders her license for a minimum of five years.

Based on the evidence before it, the Board makes the following Findings of Fact, Conclusions of Law:

FINDINGS OF FACT

1. Respondent holds Board issued professional nurse license no. RN132306.
2. On or about April 14, 2005, during an interview with Board staff, Respondent disclosed a five (5) year history of multiple opioid and benzodiazepine use, muscle relaxants, anti-depressants and non-steroidal medications that were prescribed by various physicians in Florida (FL), California (CA) and Arizona (AZ) for her chronic back pain, anxiety and depression. Respondent disclosed her other medical treatments have included the following: a) epidural steroid injections, b) TENS unit, c) chiropractic therapy, and d) physical therapy.

3. On or about October 18, 2005, Respondent voluntarily submitted to an evaluation by Michel A. Sucher, M.D., a Board approved Addictionologist. Dr. Sucher opined that Respondent was not a chemically dependent addict, but rather was physically dependent upon opiate medications, a consequence of long term prescribed opioid use. Dr. Sucher further opined Respondent could function safely as a nurse as long as she remained compliant with her current pain management treatment program and medication regiment as directed by pain management specialist, Larry P. Putnam, M.D.

4. On or about December 13, 2005, Respondent entered into Consent Agreement and Order No. 0503049 for a twenty-four (24) month probation with terms and conditions. The terms and conditions, in part, required Respondent to submit quarterly pharmacy profiles, submit monthly random urine drug screens, abstain from use of alcohol and unauthorized drugs, submit quarterly employer performance evaluations or self-report forms, and practice as a professional nurse under direct supervision for twenty-four (24) months.

5. On or about October 16, 2006, Respondent requested to voluntary surrender her license.

CONCLUSIONS OF LAW

Pursuant to A.R.S. § § 32-1606, 32-1663, and 32-1664, the Board has subject matter and personal jurisdiction in this matter.

The conduct and circumstances described in the Findings of Fact constitute a violation of A.R.S. § 32-1601(16), (d), (i), (j), and A.A.C. R4-19-403(12), (23), and (25).

The conduct and circumstances described in the Findings of Fact constitute sufficient cause pursuant to A.R.S. §§ 32-1663 (D)(5) 32-1664(N) to take disciplinary action against Respondent's license to practice as a professional nurse in the State of Arizona.

Respondent admits the Board's Findings of Fact, Conclusions of Law.

Respondent understands that she has an opportunity to request a hearing and declines to do so. Respondent agrees to issuance of the attached Order and waives all rights to a hearing, rehearing, appeal, or judicial review relating to this Order.

Respondent understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.

Respondent understands that the admissions in the Findings of Fact are conclusive evidence of a violation of the Nurse Practice Act and may be used for purposes of determining sanctions in any future disciplinary matter.

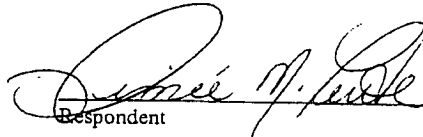
Respondent understands the right to consult legal counsel prior to entering into the Consent Agreement and such consultation has either been obtained or is waived.

Respondent understands that this voluntary surrender is effective upon its acceptance by the Executive Director or the Board and by Respondent as evidenced by the respective signatures thereto. Respondent's signature obtained via facsimile shall have the same effect as an original signature. Once signed by the Respondent, the agreement cannot be withdrawn without the Executive Director or the Board's approval or by stipulation between the Respondent and the Executive Director or the Board. The effective date of this Order is the date the Voluntary Surrender is signed by the Executive Director or the Board and by Respondent. If the Voluntary Surrender is signed on a different date, the later date is the effective date.

Respondent understands that Voluntary Surrender constitutes disciplinary action. Respondent also understands that she may not reapply for reinstatement during the period of Voluntary Surrender.

Respondent agrees that she may apply for reinstatement after the period of voluntary surrender under the following conditions, and must comply with current law at the time of their application for reinstatement:

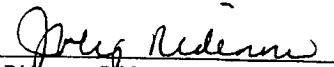
The application for reinstatement must be in writing and shall contain therein or have attached thereto substantial evidence that the basis for the voluntary surrender has been removed and that the reinstatement of the license does not constitute a threat to the public's health, safety and welfare. The Board may require physical, psychological, or psychiatric evaluations, reports and affidavits regarding the Respondent as it deems necessary. These conditions shall be met before the application for reinstatement is considered.


Respondent

Date: 1/10/2007

ARIZONA STATE BOARD OF NURSING

SEAL


Joey Ridenour, R.N., M.N.
Executive Director

Dated: 1/17/07

Bailey/Leute RN132306

ORDER

Pursuant to A.R.S. § 32-1663 (D)(5) the Board hereby accepts the Voluntary Surrender of professional nurse license number RN132306, issued to Aimee M. Leute. This Order of Voluntary Surrender hereby entered shall be filed with the Board and shall be made public upon the effective

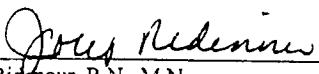
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date of this Consent Agreement. Respondent shall not practice in Arizona under the privilege of a multistate license.

IT IS FURTHER ORDERED that Respondent may apply for reinstatement of said license after a period of five years.

SEAL

ARIZONA STATE BOARD OF NURSING


Joey Ridenour, R.N., M.N.
Executive Director

Dated: 1/17/07

JR/EB:eb

COPY mailed this 20th day of December, 2006, by First Class Mail to:

Aimee M. Leute
307 Heine Avenue
Elgin, Illinois 60123

By: E. Bailey
Senior Investigator

BEFORE THE ARIZONA STATE BOARD OF NURSING

IN THE MATTER OF THE APPLICATION)
FOR PROFESSIONAL NURSE LICENSURE)
BY ENDORSEMENT OF)
AIMEE MARIE LEUTE)
APPLICANT)

**CONSENT AGREEMENT
AND
ORDER NO. 0503049**

CONSENT AGREEMENT

A complaint charging AIMEE MARIE LEUTE ("Applicant") with violation of the Nurse Practice Act has been received by the Arizona State of Nursing ("Board"). In the interest of prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements and the responsibilities of the Board, and pursuant to A.R.S. § 41-1092.07 (F) (5), the undersigned parties enter into this Consent Agreement as a final disposition of this matter.

Based on the evidence before it, the Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On or about February 24, 2005, Applicant submitted an application for professional nurse licensure by endorsement.
2. On or about April 14, 2005, during an interview with Board staff, Applicant disclosed a five (5) year history of multiple opioid and benzodiazepine use, muscle relaxants, anti-depressants and non-steroidal medications that were prescribed by various physicians in Florida (FL), California (CA) and Arizona (AZ) for her chronic back pain, anxiety and depression. Applicant disclosed her other medical treatments have included the following: a) epidural steroid injections, b) TENS unit, c) chiropractic therapy, and d) physical therapy.
3. On or about October 18, 2005, Applicant voluntarily submitted to an evaluation by Michel A. Sucher, M.D., a Board approved Addictionologist. Dr. Sucher opined that Applicant

was not a chemically dependent addict, but rather was physically dependent upon opiate medications, a consequence of long term prescribed opioid use. Dr. Sucher further opined Applicant could function safely as a nurse as long as she remained compliant with her current pain management treatment program and medication regiment as directed by pain management specialist, Larry P. Putnam, M.D.

CONCLUSIONS OF LAW

Pursuant to A.R.S. §§ 32-1606, 32-1663 and 32-1664, the Board has subject matter and personal jurisdiction in this matter.

The conduct and circumstances described in the Findings of Fact constitute violations of A.R.S. § 32-1663(A) as defined in § 32-1601(d), and (j); and A.A.C. R4-19-403(12), (23), and (25).

The conduct and circumstances described in the Findings of Fact constitute sufficient cause pursuant to A.R.S. § 32-1663(A) to deny, or issue a conditional license to Applicant.

Applicant admits the Board's Findings of Fact and Conclusions of Law.

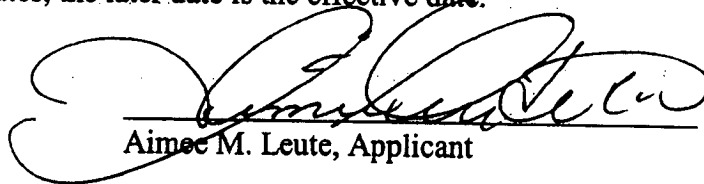
In lieu of a formal hearing on these issues, Applicant agrees to issuance of the attached Order and waives all rights to a hearing, rehearing, appeal or judicial review relating to the Order except in the limited circumstance(s) specified in Paragraph 19 of this Order.

Applicant understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.

Applicant understands that the admissions in the Findings of Fact are conclusive evidence of a violation of the Nurse Practice Act and may be used for purposes of determining sanctions in any future disciplinary matter.

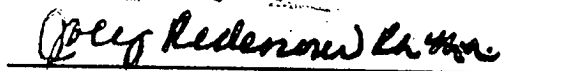
Applicant understands the right to consult legal counsel prior to entering into this Consent Agreement and such consultation has either been obtained or is waived.

Applicant understands that this Consent Agreement is effective upon its acceptance by the Board and by Applicant as evidenced by the respective signatures thereto. Applicant's signature obtained via facsimile shall have the same effect as an original signature. Once signed by the Applicant, the agreement cannot be withdrawn without the Board's approval or by stipulation between Applicant and the Board's designee. The effective date of this Order is the date the Consent Agreement is signed by the Board and by Applicant. If the Consent Agreement is signed on different dates, the later date is the effective date.


Aimee M. Leute, Applicant

Dated: 12/13/05

ARIZONA STATE BOARD OF NURSING


Joey Ridenour, R.N., M.N.
Executive Director

Dated: November 17, 2005

RAPPOPORT/TRN132306/LEUTE.AIMEE

ORDER

In view of the above Findings of Fact, Conclusions of Law and the consent of Applicant, the Board hereby issues the following Order:

- A. Applicant's consent to the terms and conditions of the Order and waiver of public hearing is accepted.
- B. Upon Applicant's signature on this consent agreement, and acceptance by the Board, Applicant will be granted a professional nursing license, and that license is placed on probation for **twenty-four (24) months**. Prior to termination of probation, Respondent shall work as a professional nurse for a minimum of **twenty-four (24) months**, (not less than sixteen (16) hours a week).
- C. This Order becomes effective upon the Board and Applicant's acceptance of the Consent Agreement. The effective date of this Order is the date the Consent Agreement is signed by the Board and by Applicant. If the Consent Agreement is signed on different dates, the later is the effective date. Probation is to commence the effective date of this Order.
- D. If Applicant is noncompliant with any of the terms of the Order, Applicant's noncompliance shall be reviewed by the Board for consideration of possible further discipline on Applicant's nursing license.
- E. If Applicant is convicted of a felony, Applicant's license shall be automatically revoked for a period of five (5) years. Applicant waives any and all rights to a hearing, rehearing or judicial review of any revocation imposed pursuant to this paragraph.
- F. Probation is subject to the following terms and conditions:

TERMS OF PROBATION

1. Stamping of License

Upon acceptance by the Board and the Applicant of this Consent Agreement as evidenced their respective signatures on this Consent Agreement, Applicant will be granted a professional nursing license stamped "Probation." While this consent agreement is in effect, if the Board issues any licenses or certificates authorized by statute except a nursing assistant certificate, such certificate or license shall be stamped "Probation." Applicant is not eligible for a multi-state "Compact" license.

2. Neuropsychological Evaluation

If Applicant has an unacceptable work performance evaluation submitted to the Board, Applicant shall make an appointment to undergo a neuropsychological evaluation by a Board-approved psychologist within fifteen days (15) of the last unacceptable work performance evaluation. Applicant shall execute the appropriate release of information form(s) to allow the evaluator to communicate information to the Board or its designee. Applicant shall also execute a release of information form to allow the Board Monitoring Consultant to release a copy of the report from Michel A. Sucher, M.D. to the evaluator. Prior to the evaluation, Applicant shall furnish a copy of this Consent Agreement and Order to include Findings of Fact, Conclusions of Law, and Order to the evaluator who shall verify receipt of the Consent Agreement and Order to include Findings of Fact in a written report on letterhead to the Board. Applicant shall direct the evaluator to provide a report to the Board summarizing the evaluation within thirty (30) days after the evaluation is completed.

The report shall include a history and physical, relevant laboratory data if appropriate, psychological testing if appropriate, recommendations for treatment, if any, and an assessment as to Applicant's ability to function safely in nursing.

If it is recommended that Applicant undergo medical treatment and/or psychological therapy or counseling, Applicant shall, within seven (7) days of notification of the recommendation(s), provide to the Board or its designee for prior approval, the name and qualifications of treatment professional(s) with appropriate level of expertise of Applicant's choice. Upon approval of the treatment professional(s), Applicant shall provide a copy of the entire consent agreement which the treatment professional(s) shall verify in writing on letterhead in their first report to the Board. Applicant shall undergo and continue treatment until the treatment professional(s) determines and reports to the Board in writing and on letterhead, that treatment is no longer considered necessary. Applicant shall have the treatment professional(s) provide written reports to the Board every four (4) months. The Board reserves the right to amend this Order based on the evaluation results or the treatment professional's recommendations.

3. One Medical Provider for Pain Management Treatment

Within thirty (30) days of the effective date of this Order, Applicant shall submit to the Board for approval the name of one (1) pain management specialist of Applicant's choice to conduct pain management treatment. Within seven (7) days of receipt of approval from the Board, Applicant shall make an appointment to begin participation in treatment. Applicant shall immediately execute the appropriate release of information form(s) to allow the treating professional(s) to communicate information to the Board or its designee, and Applicant shall immediately provide a copy of the entire Consent Agreement to all treating professional(s).

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Within seven (7) days of the beginning of treatment, Applicant shall cause any and all treating professional(s) to provide written verification of enrollment in treatment and verifying receipt of the Consent Agreement. Thereafter, Applicant shall cause any and all treating professional(s) to provide quarterly reports to the Board according to the quarterly reporting schedule assigned to Applicant. Applicant shall continue undergoing treatment until the treating professional(s) notify the Board, in writing on letterhead, that treatment is no longer needed. The Board reserves the right to amend the Order based on recommendation(s) of treating professional(s).

4. Pharmacy Profiles

Throughout the duration of this Order, Applicant shall use only one (1) pharmacy from which to obtain her prescriptions. Within thirty (30) days of the effective date of the Consent Agreement, Applicant shall submit in writing to the Board the name of every pharmacy and/or facility from which Applicant is currently obtaining prescription medications, and shall submit the name of the pharmacy from which she chooses to obtain future prescriptions. Throughout the duration of the Order, Applicant must inform the Board in writing within seven (7) days of any additions or changes in pharmacies from which Applicant obtains medications. Applicant shall submit a copy of all pharmacy profiles to the Board on a quarterly basis according to the assigned reporting due dates, assigned to Applicant.

5. Drug Testing

Within seven (7) days of the effective date of this Order, Applicant shall enroll in a program that meets Board criteria for random drug testing. Random drug testing shall be done at a minimum of once (1) per month and may be required more frequently as requested by the Board or its designee. Applicant shall notify the drug testing laboratory and the Board, in writing, of unavailability to test before the anticipated absence. If Applicant is unable to submit

a specimen on a date requested due to illness, Applicant must provide in writing within seven (7) days of the missed specimen, documentation from a medical provider who has personally seen Applicant on the day of the requested drug test confirming that Applicant was not physically able to report to the laboratory for drug testing. In addition, any occurrence of the following conditions constitutes noncompliance: a positive drug test showing evidence of any drug other than an authorized drug; submission of a specimen where the integrity has been compromised, as indicated by the presence of adulterants; failure to submit to a drug test on a day when a drug test has been requested by either the Board, its designee, or the laboratory; and submission of a urine sample that is below the acceptable volume or temperature to be tested. A positive drug test showing evidence of any drug other than an authorized drug shall result in immediate notification of Applicant's employer by the Board.

6. Abstain from Alcohol Use

Applicant shall abstain completely from the personal use of alcoholic beverages.

7. Abstain From Unauthorized Drug Use/Proof of Prescription

Applicant shall abstain completely from the personal use or possession of controlled substances, as defined in the State Controlled Substances Act, and dangerous drugs as defined by law, or any drugs requiring a prescription.

Orders prohibiting Applicant from personal use or possession of controlled substances or dangerous drugs do not apply to medications lawfully prescribed to Applicant for a bona fide illness or condition by a medical provider. During the duration of this Order, Applicant shall select one (1) medical provider to coordinate her health care needs and to be aware of all prescriptions utilized by Applicant. Applicant shall immediately submit to that

BOARD OF REGISTERED NURSING

provider a copy of this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law and shall execute all release of information form(s) as required by the Board or its designee. The medical provider shall, within one (1) week of the effective date of the consent agreement, inform the Board, in writing, of knowledge of Applicant's Order and provide a list of medications prescribed for Applicant. DURING THE DURATION OF THE CONSENT AGREEMENT, APPLICANT SHALL CAUSE ALL PROVIDERS TO NOTIFY THE BOARD OF ANY ADDITIONAL MEDICATIONS ORDERED BY THE PROVIDER. THE NOTIFICATION SHALL BE MADE IN WRITING WITHIN ONE WEEK OF THE PROVIDER'S ISSUANCE OF THE PRESCRIPTION.

If Applicant has a lawful prescription for a narcotic or mood-altering drug, Applicant shall cause her prescribing provider to submit monthly reports to the Board by the 30th day of each month regarding the continued need for the prescribed narcotic or mood-altering medications. The Board or its designee may, at any time, request the provider to document the continued need for prescribed medications. Applicant shall keep a written record of medications taken, including over-the-counter drugs, and produce such record upon request by the Board or its designee.

8. Notification of Practice Settings

Any setting in which Applicant accepts employment, which requires RN licensure, shall be provided with a copy of the entire Order on or before the date of hire. Within seventy-two (72) hours of Applicant's date of hire, Applicant shall cause her immediate supervisor to inform the Board, in writing and on employer letterhead, acknowledgment of the supervisor's receipt of a copy of this Consent Agreement and Order and the employer's ability to comply with the conditions of probation. In the event Applicant is attending a nursing program,

Applicant shall provide a copy of the entire Consent Agreement and Order to the Program Director. Applicant shall cause the Program Director to inform the Board, in writing and on school letterhead, acknowledgment of the program's receipt of a copy of the Consent Agreement and Order and the program's ability to comply with the conditions of probation during clinical experiences.

9. Quarterly Reports

Within thirty (30) days of the effective date of this Order, and quarterly thereafter, Applicant shall cause every employer Applicant has worked for during the quarter to submit to the Board, in writing, employer evaluations on the Board-approved form. Receipt of notice of an unsatisfactory employer evaluation, verbal or written warning, counseling or disciplinary action, or termination from a place of employment shall constitute a violation of this paragraph. In the event Applicant is not employed in nursing or attending school during any quarter or portion thereof, Applicant shall submit to the Board, in writing, a self-report describing other employment or activities on the Board-approved form.

10. Practice Under Direct Supervision

Applicant shall practice as a professional nurse, only under the direct supervision of a professional nurse in good standing with the Board. Direct supervision is defined as having a professional nurse present on the same unit with the Applicant whenever Applicant is practicing as a professional nurse. The supervising nurse shall have read this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law, and Order, and shall provide input on Applicant's employer evaluations to the Board. The supervising nurse shall be primarily one (1) person, who may periodically delegate to other qualified personnel, who shall also have read this Consent Agreement and Order to include

BOARD OF REGISTERED NURSING

Findings of Fact, Conclusions of Law. In the event the assigned supervising nurse is no longer responsible for the supervision required by this paragraph, Applicant shall cause her new assigned supervising nurse to inform the Board, in writing and on employer letterhead, acknowledgment of the new supervising nurse's receipt of a copy of this Consent Agreement and Order to include Findings of Fact and Conclusions of Law and the new supervising nurse's agreement to comply with the conditions of probation within seven (7) days of assignment of a new supervising nurse.

11. Acceptable Hours of Work

Applicant can work any shift. Within a seven (7) day period, Applicant may work an additional two (2) hours of "on-call" in addition to her ten (10) hour shift, for a total of eight hours within a forty-hour scheduled hours. Within a seven (7) day period Applicant shall not work more than forty-eight (48) scheduled hours.

Applicant may work three 12-hour shifts in one seven-day period and four 12-hour shifts in the other seven-day period, but Applicant may not work more than three (3) consecutive 12-hour shifts during this probationary period. Applicant shall not work two (2) consecutive eight (8) hour shifts within a 24-hour period or be scheduled to work 16-hours within a 24-hour period.

12. Travel Agency/Registry Work Conditions

Applicant may continue to work for NurseFinders Inc., contingent upon being assigned to one (1) block setting, for the duration of the probation. If Applicant is not assigned to a NurseFinders Inc. block assignment, Applicant may not work for a nurse's registry, home health, traveling nurse agency, any other temporary employing agencies, or float-pool during the period of probation.

13. Out-of-State Practice/Residence

Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, it must first be approved by the Board prior to leaving the state. If Applicant fails to receive such approval before leaving the state, none of the time spent out-of-state will be credited to the fulfillment of the terms and conditions of this Order.

14. Release of Information Forms

Applicant shall immediately execute all release of information forms as may be required by the Board or its designee.

15. Interview With the Board or Its Designee

Applicant shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

16. Renewal of License

In the event the license is scheduled to expire while this Order is in effect, Applicant shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualification to practice nursing in Arizona.

17. Change of Employment/Personal Address/Telephone Number

Applicant shall notify the Board, in writing, within one week of any change in nursing employment, personal address or telephone number.

18. Obey All Laws

Applicant shall obey all federal, state and local laws, and all laws/rules governing the practice of nursing in this state. Offenses such as driving under the influence may subject Applicant to further disciplinary action, however, commission of minor civil traffic moving violations are excluded.

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19. Costs

Applicant shall bear all costs of complying with this Order.

20. Violation of Probation

If Applicant is noncompliant with this Order in any respect, the Board or its designee may notify Applicant's employer of the noncompliance. Additionally, the Board may revoke probation and take further disciplinary action for noncompliance with this Order after affording Applicant notice and the opportunity to be heard. If a complaint or petition to revoke probation is filed against Applicant during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

21. Voluntary Surrender of License


Applicant may, at any time this Order is in effect, voluntarily request surrender of her license.

22. Completion of Probation

Upon successful completion of the terms of probation, Applicant shall request formal review by the Board, and after formal review by the Board, Applicant's nursing license may be fully restored by the appropriate Board action if compliance with this Order has been demonstrated.

ARIZONA STATE BOARD OF NURSING

SEAL



Joey Ridenour, R.N., M.N.
Executive Director

Dated: November 17, 2005

JR/mer:eg

COPY mailed this 6th day of December, 2005, by Certified Mail No. 7001 1940 0003 4510 8465
and First Class Mail to:

Aimee Marie Leute
4314 West Ina Road
Tucson, Az 85741

By: Esther Garcia

BOARD OF REGISTERED NURSING

DEC 21 2005

Signed copy given in Board office, this 13th day of December, 2005, to:

Aimee Marie Leute
4314 West Ina Road
Tucson, Az 85741

By: Mary Rappoport
Nurse Consultant